IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

CONTEMPT PETITION NO.78 OF 2005
IN
WRIT PETITION NO.3134 OF 2002

Smt.Suvarna Hanman Gurav).. Petitioner

Versus

Arvind Baburao Koli).. Respondent

Mr.Vijay D. Patil for the Petitioner.

Mr.A.H. Palekar, Assistant Government Pleader, for the Respondent.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 21ST OCTOBER 2005

P.C.:

. The Petitioner has approached this Court for the breach of the order of this Court dated 21st June 2002 as well as the order dated 3rd December 2004 passed by the Additional District Judge, Karad. It appears that in Writ Petition No.3134 of 2002, the Petitioner had challenged the interim orders passed in Election Petition No.2 of 2002 pending before the Additional District Judge, Karad. This Court by its order dated 21st June 2002 directed that the further proceedings in the Election Petition should continue. However, the final order which would be passed in the Petition, if adverse to the interest of the Petitioner, was not to be given effect to without the consent of this Court.

2. On 3rd December 2004, the Additional District Judge, Karad decided the Election Petition and allowed the same. It was declared that the election of the Petitioner herein was null and void and instead one Sou.Housabai Laxman Zore was elected as a Member of the 32 Yerad College Panchayat Samiti, Patan for the year 2002 to 2007. In paragraph 5 of this order, the Additional District Judge made a mention of the order of this Court in Writ Petition No.3134 of 2002 and directed that the Respondent should give effect to the order only after obtaining permission from this Court.

3. It appears that after this order was passed on 3rd December 2004, there was an election to the posts of Sabhapati and Upa-Sabhapati. The Petitioner was not allowed to vote at that election which was held on 10th February 2005. The Tahsildar, Patan, who is the Respondent herein, prevented the Petitioner from exercising her vote without this Court’s approval of the order of the Additional District Judge. Therefore, according to the Petitioner, she continued in the office. Neither party had sought leave of this Court to give effect to the order of the Additional District Judge removing her from office and declaring Housabai Zore as the elected candidate. The present Petition has been filed complaining that the Respondent has committed

contempt of Court.

4. The Writ Petition filed by the Petitioner against the order of the Additional District Judge has been dismissed. Writ Petition No.3134 of 2002 wherein directions were issued to the Additional District Judge hearing the Election Petition has also been dismissed. Both Petitions were dismissed in April 2005, after the Contempt Petition was filed. However, a question arises whether any contempt has been committed by the Respondent in preventing the Petitioner from exercising her right to vote at the elections of Sabhapati and Upa-Sabhapati ?

5. In the affidavit filed by the Respondent, he has stated, while tendering an unconditional apology, that he read only the first four paragraphs of the order and did not bother to read the last paragraph of the order of the Additional District Judge. In my view, this explanation given by the officer of the rank of a Tahsildar is not acceptable. There is no doubt that he has violated the order of this Court as well as the order of the Additional District Judge by preventing the Petitioner from exercising her right to vote to the elections of Sabhapati and Upa-Sabhapati.

6. Mr.Patil brings to my notice judgments of the Supreme Court in the case of *Tayabbhai M.Bagasarwalla and*

another vs. *Hind Rubber Industries Pvt. Ltd.*, **AIR 1997 SC 1240** and in the case of *Prithawi Nath Ram* vs. *State of Jharkhand and others*, **AIR 2004 SC 4277**, to submit that although the Writ Petitions may have been dismissed, this Court should take action against the Respondent for violating the order of the Additional District Judge.

7. In my view, although the Respondent has committed contempt, in the circumstances of the case the unconditional apology tendered by the Respondent can be accepted. Accordingly the apology tendered by the Respondent is accepted. However, the Respondent is directed to ensure that he reads the orders of the Court thoroughly before passing any order himself so that such instances do not occur again. Contempt Petition disposed of accordingly.